

House Amendment 1103

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1 1 Amend House File 702 as follows:
1 2 ~~#1.~~ Page 1, by inserting after line 24 the
1 3 following:

1 4 <Sec. _____. Section 85.35, Code 2005, is amended to
1 5 read as follows:

1 6 85.35 ~~SETTLEMENT IN CONTESTED CASE~~ SETTLEMENTS.

1 7 ~~1.~~ The parties to a contested case or persons who
1 8 are involved in a dispute which could culminate in a
1 9 contested case may enter into a settlement of any
1 10 claim arising under this chapter or chapter 85A, 85B,
1 11 or 86, providing for ~~final~~ disposition of the claim,
~~provided that no final disposition affecting rights to~~
~~future benefits may be had when the only dispute is~~
~~the degree of disability resulting from an injury for~~
~~which an award for payments or agreement for~~
~~settlement under section 86.13 has been made. The~~
1 17 settlement shall be in writing on forms prescribed by
1 18 the workers' compensation commissioner and submitted
1 19 to the workers' compensation commissioner for
1 20 approval.

1 21 ~~2.~~ The parties may enter into an agreement for
1 22 settlement that establishes the employer's liability,
1 23 fixes the nature and extent of the employee's current
1 24 right to accrued benefits, and establishes the
1 25 employee's right to statutory benefits that accrue in
1 26 the future.

1 27 ~~3.~~ The parties may enter into a compromise
1 28 settlement of the employee's claim to benefits as a
1 29 full and final disposition of the claim.

1 30 ~~4.~~ The parties may enter into a settlement that is
1 31 a combination of an agreement for settlement and a
1 32 compromise settlement that establishes the employer's
1 33 liability for part of a claim but makes a full and
1 34 final disposition of other parts of a claim.

1 35 ~~5.~~ A contingent settlement may be made and
1 36 approved, conditioned upon subsequent approval by a
1 37 court or governmental agency, or upon any other
1 38 subsequent event that is expected to occur within one
1 39 year from the date of the settlement. If the
1 40 subsequent approval or event does not occur, the
1 41 contingent settlement and its approval may be vacated
1 42 by order of the workers' compensation commissioner
1 43 upon a petition for vacation filed by one of the
1 44 parties or upon agreement by all parties. If a
1 45 contingent settlement is vacated, the running of any
1 46 period of limitation provided for in section 85.26 is
1 47 tolled from the date the settlement was initially
1 48 approved until the date that the settlement is
1 49 vacated, and the claim is restored to the status that
1 50 the claim held when the contingent settlement was
2 1 initially approved. The contingency on a settlement
2 2 lapses and the settlement becomes final and fully
2 3 enforceable if an action to vacate the contingent
2 4 settlement or to extend the period of time allowed for
2 5 the subsequent approval or event to occur is not
2 6 initiated within one year from the date that the
2 7 contingent settlement was initially approved.

2 8 ~~6.~~ The parties may agree that settlement proceeds,
2 9 which are paid in a lump sum, are intended to
2 10 compensate the injured worker at a given monthly or
2 11 weekly rate over the life expectancy of the injured
2 12 worker. If such an agreement is reached, neither the
2 13 weekly compensation rate which either has been paid,
2 14 or should have been paid, throughout the case, nor the
2 15 maximum statutory weekly rate applicable to the injury
2 16 shall apply. Instead, the rate set forth in the
2 17 settlement agreement shall be the rate for the case.

2 18 ~~The settlement shall not be approved unless~~
2 19 ~~evidence of a bona fide dispute exists concerning any~~
2 20 ~~of the following:~~

2 21 ~~1. The claimed injury arose out of or in the~~
2 22 ~~course of the employment.~~

2 23 ~~2. The injured employee gave notice under section~~
2 24 ~~85.23.~~

2 25 3. Whether or not the statutes of limitations as
2 26 provided in section 85.26 have run. When the issue
2 27 involved is whether or not the statute of limitations
2 28 of section 85.26, subsection 2, has run, the final
2 29 disposition shall pertain to the right to weekly
2 30 compensation unless otherwise provided for in
2 31 subsection 7 of this section.
2 32 4. The injury was caused by the employee's willful
2 33 intent to injure the employee's self or to willfully
2 34 injure another.
2 35 5. Intoxication, which did not arise out of and in
2 36 the course of employment but which was due to the
2 37 effects of alcohol or another narcotic, depressant,
2 38 stimulant, hallucinogenic, or hypnotic drug not
2 39 prescribed by an authorized medical practitioner, was
2 40 a substantial factor in causing the employee's injury.
2 41 6. The injury was caused by the willful act of a
2 42 third party directed against the employee for reasons
2 43 personal to such employee.
2 44 7. This chapter or chapter 85A, 85B, 86 or 87
2 45 applies to the party making the claim.
2 46 8. A substantial portion of the claimed disability
2 47 is related to physical or mental conditions other than
2 48 those caused by the injury.
2 49 7. A settlement shall be approved by the workers'
2 50 compensation commissioner if the parties show all of
3 1 the following:
3 2 a. Substantial evidence exists to support the
3 3 terms of the settlement.
3 4 b. Waiver of the employee's right to a hearing,
3 5 decision, and statutory benefits is made knowingly by
3 6 the employee.
3 7 c. The settlement is a reasonable and informed
3 8 compromise of the competing interests of the parties.
3 9 If an employee is represented by legal counsel, it
3 10 is presumed that the required showing for approval of
3 11 the settlement has been made.
3 12 8. Approval of a settlement by the workers'
3 13 compensation commissioner shall be is binding on the
3 14 parties and shall not be construed as an original
3 15 proceeding. Notwithstanding any provisions of this
3 16 chapter and chapters 85A, 85B, 86, and 87, an approved
3 17 compromise settlement shall constitute a final bar to
3 18 any further rights arising under this chapter and
3 19 chapters 85A, 85B, 86, and 87. Such regarding the
3 20 subject matter of the compromise and a payment made
3 21 pursuant to a compromise settlement agreement shall
3 22 not be construed as the payment of weekly
3 23 compensation.>
3 24 #2. Page 2, by inserting after line 1 the
3 25 following:
3 26 <Sec. _____. Section 85.71, Code 2005, is amended by
3 27 adding the following new subsection:
3 28 NEW SUBSECTION. 5. The employer has a place of
3 29 business in Iowa, and the employee is working under a
3 30 contract of hire which provides that the employee's
3 31 workers' compensation claims be governed by Iowa law.
3 32 Sec. _____. Section 86.24, subsection 4, Code 2005,
3 33 is amended to read as follows:
3 34 4. A transcript of a contested case proceeding
3 35 shall be provided by an appealing party at the party's
3 36 cost and an affidavit shall be filed by the appealing
3 37 party or the party's attorney with the workers'
3 38 compensation commissioner within ten days after the
3 39 filing of the appeal to the workers' compensation
3 40 commissioner stating that the transcript has been
3 41 ordered and identifying the name and address of the
3 42 reporter or reporting firm from which the transcript
3 43 has been ordered.
3 44 Sec. _____. Section 87.14A, Code 2005, is amended to
3 45 read as follows:
3 46 87.14A ~~INSURANCE OR BOND~~ REQUIRED.
3 47 An employer subject to this chapter and chapters
3 48 85, 85A, 85B, and 86 shall not engage in business
3 49 without first obtaining insurance covering
3 50 compensation benefits or obtaining relief from
4 1 insurance as provided in this chapter ~~or furnishing a~~
4 2 ~~bond pursuant to section 87.16~~. A person who
4 3 willfully and knowingly violates this section is
4 4 guilty of a class "D" felony.
4 5 Sec. _____. Section 87.19, unnumbered paragraph 1,

4 6 Code 2005, is amended to read as follows:
4 7 Upon the receipt of information by the workers'
4 8 compensation commissioner of any employer failing to
4 9 comply with ~~sections 87.16 and 87.17~~ section 87.14A,
4 10 the commissioner shall at once notify such employer by
4 11 certified mail that unless such employer comply with
4 12 the requirements of law, legal proceedings will be
4 13 instituted to enforce such compliance.
4 14 Sec. _____. Section 87.20, Code 2005, is amended to
4 15 read as follows:
4 16 87.20 REVOCATION OF RELEASE FROM INSURANCE.
4 17 The insurance commissioner ~~with the concurrence of~~
~~4 18 the workers' compensation commissioner~~ may, at any
4 19 time, upon reasonable notice to such employer and upon
4 20 hearing, revoke for cause any order theretofore made
4 21 relieving any employer from carrying insurance as
4 22 provided by this chapter.>
4 23 #3. Page 2, by inserting after line 27 the
4 24 following:
4 25 <Sec. _____. Sections 87.16 and 87.17, Code 2005,
4 26 are repealed.>
4 27 #4. Title page, by striking line 4, and inserting
4 28 the following: <and workers' compensation.>
4 29 #5. By renumbering as necessary.
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4 33 _____
4 34 STRUYK of Pottawattamie
4 35 HF 702.501 81
4 35 kh/pj/2305